



SRM and ARTICULATION with BRRD

- Selected provisions of SRM and intergovernmental agreement (IGA) -

Institutional framework

Participating member states of SRM (= “Contracting Parties” in IGA)

Same than for the Single Supervision Mechanism (SSM): eurozone + other voluntary EU members.

Institutional scope

Same institutions than in BRRD (credit institutions, parent undertakings, investment firms and financial institutions), but parent undertakings on one hand, investment firms and financial institutions through their parent undertakings on the other hand, only when subject to the consolidated supervision of ECB according to SSM.

For instance, single investment firms are covered by BRRD, not by SRM.

Institutions

SRM creates two new EU entities:

- the Single Resolution Board (SRB), a resolution authority,
- the Single Resolution Fund (SRF), a resources pooling instrument owned by the SRB.

Responsibility sharing between SRB and national resolution authorities

The Single Resolution Board (SRB) is directly in charge of resolution plans and resolution:

- for all “significant institutions” or other institutions which are subject to ECB’s direct supervision (through SSM);
- for “cross-border groups” (meaning groups of entities covered by the SSM, established in more than one SRM participating member state);
- as well as, optionally, for other institutions for which member states decide to transfer to SRB the direct responsibility of their resolution;
- or when the resolution action requires the use of the resources of the SRF.

National resolution authorities should implement the resolution actions decided by SRB. They are also fully in charge of resolution plans and resolution for other institutions/ situations.

Therefore, the resolution of a non-significant credit institution established in a participating member state with a subsidiary based in another member state is run by the SRB if this member state participates to SRM; through BRRD procedures if not. The resolution of a non-significant credit institution with only a branch abroad is run by the national resolution authorities, under the control of the SRB which may take over the responsibility of their resolution if necessary.



Single Resolution Board (SRB)

Composition

SRB is composed of a Chair, four full time members and one member appointed by each participating member state representing the national resolution authorities. ECB and Commission have each a permanent observer. SRB is accountable to the Parliament, the Council and the Commission.

Plenary sessions

SRB has plenary sessions with all members, at least twice a year, for: annual work program; annual budget; use of SRF over €5 Bn (with a 0,5 coefficient for mere liquidity support) if at least one member of the plenary session has called a meeting of the plenary within 3 hours after submission by the executive session; evaluation of the application of the resolution tools and guidance to the executive session when SRF has been used for more than €5 Bn during the last 12 months; decision to raise ex-post contributions and on borrowings etc.

Decisions taken by a simple majority of its members, with exceptions (use of the available means of the SRF, ex post contributions, borrowings).

Executive sessions

SRB also has executive sessions (Chair and four full time members), for: preparing all plenary sessions decisions, approving resolution plans and determining MREL for all entities in SRM scope, providing the Commission with the resolutions schemes. When SRB deliberates on a specific entity, the Board members representing the concerned national resolution authorities join the executive session.

Decisions by consensus among executive session members (including representatives of concerned national resolution authorities); if not, by a simple majority of the Chair and four full time members.

Single Resolution Fund (SRF)

Resources

Target level set at 1% of covered deposits in all participating member states before 1 January 2024 (+ 4 years in case of disbursements over 0.5% of covered deposits) – i.e. circa €55 Bn.

Six years replenishment period when the available financial means fall below 2/3 of the target level.

Links with BRRD's Financing Arrangements

All participating member states still have to comply with BRRD and establish Financing Arrangements (FAs).

The contributions to SRM are raised:



- on all institutions within SRM scope, dealt with by SRB when in resolution or not
- by the Contracting Parties (through their FAs or not)
- and transferred to SRF before June 30 each year (first transfer before January 2016).

FAs do not keep any resources on their own (except for resolving institutions outside SRM scope, e.g. single investment firms). Would a resolution lead by national authorities over an entity within the scope of SRM require resources from a resolution fund, the case would be transferred to SRB/ SFR.

Contributions to SRF

Contributions at least annual, based on a flat component (prorata total liabilities less own funds less covered deposits of each individual bank), and a risk adjusted component (same criteria than in BRRD), without creating distortions between banking sector structures of the member states and also taking into account a balanced distribution of contributions across different types of banks. These two components will be determined later; could be additive or multiplicative.

30% max of payment commitments in total available financial means.

Extraordinary contributions up to 3 times the annual contributions.

Contributions made to national financing arrangements before the entry into force of BRRD could be used to compensate institutions for the contributions to be made to the SRF.

Other resources

Alternative funding arrangements may be in place with the market for short term funding so as to optimize the cost of funding (article 69).

Formally no link with a possible guarantee by member states for raising resources on the market, but the Board should immediately, in cooperation with the participating Member States, find ways for enhancing the borrowing capacity of the Fund at the date of application of the SRM regulation.

Formally no link with the European Stability Mechanism (ESM), but financial arrangements, including, where possible, public financial arrangements shall be in place so as to ensure the immediate availability of additional financial means (article 69a).

Mutualisation of the use of SRF resources

Defined by a specific intergovernmental agreement (treaty)

Mutualisation

Resources transferred by Contracting Parties are first allocated to national compartments within the SRF.

The use of SRF resources is progressively mutualised over an 8 year period, starting with 40% by year 1, 60% by year 2. Resolution costs are borne:

year 1 by the concerned national compartments up to 100% of their size, then, if not enough



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by all national compartments up to 40% of their available resources
year 2 by the concerned national compartments up to 60% of its size, then, if not enough
by all national compartments up to 60% of their available resources
year 3 by the concerned national compartment up to 40% of its size, then, if not enough
by all national compartments up to 66.66% of their available resources.
On the following years, the recourse to concerned national compartments diminishes, and
the recourse to all compartments' available resources increases, by 6.66% each year.

Additional mutualisation

If the resources above are not sufficient:

- the concerned national compartment's remaining resources are used
- then ex-post extraordinary contributions are raised by the concerned member state
- if raising ex-post extraordinary contributions look not immediately feasible, including for reasons relating to the stability of the credit institutions concerned, SRB may authorize SRF to borrow money (alternative funding arrangements) or to make temporary transfers between compartments, before ex post contributions are raised.

As for temporary transfers between compartments, they cannot exceed 50% of the non-mutualised part of each national compartment. The decision shall be taken by a simple majority of members in SRB plenary session.

A member may object such a transfer if it jeopardises a resolution that could occur in its jurisdiction in the near term, if it represents more than 25% of the non-mutualised part of the compartment, or if the borrowing compartment does not provide guarantees for refunding.

Resolution framework

Resolution

The objectives, principles (including "no creditor worse off than in liquidation" and writing down capital instruments if resolution actions have an impact on creditors' claims), instruments (definition and conditions, including bail-in scope and exceptions to this scope), timing (point of non-viability) and valuation requirements are the same as in BRRD (in the spirit, if not in the letter).

Decision making-process for resolution

SRB first adopts a "resolution scheme". It transmits it to the Commission. The Commission has 12 hours to propose the Council to object it or materially change it. The resolution scheme enters into force if the Council and Commission do not object within 24 hours after the transmission. In the opposite case, SRB shall modify the scheme within 8 hours.

Decision of using SRF aid

As for the use of financing arrangements' resources in BRRD:



- SRB should first decide to exclude some liabilities from the bail-in instrument, and not to increase accordingly the losses for other bail-inable creditors;
- then, as long as the contribution to loss absorption and recapitalization of the bail-in is not less than 8% of the total liabilities of the bank (including own funds), the SRF could make a contribution to restore the net value of the bank to zero or to capitalize up to 5% of total liabilities (including own funds);
- in “extraordinary circumstances”, after the resolution fund has financed the 5% above, and as long as all unsecured non preferred liabilities other than eligible deposits have been written down or converted in full, SRB could seek “alternative financing”, or use remaining resources raised through ex ante contributions.

If SRF aid is needed (or State aid), the adoption of the resolution scheme requires a positive or conditional decision by the Commission as for its compatibility with internal market rules.

Resolution financing

Same principles and modalities than in BRRD, except for public support

Shareholders

early intervention – recovery plans (WDCI)

Bail-inable creditors

in resolution

Public support

Extraordinary public financial support only possible (within EU state aid rules), before the failure of the bank, under the forms stated in article 16-3-d: state guarantee of newly issued liabilities or to back facilities provided by a central bank, injection of new funds at market conditions...

Use of DGSS’ resources

Liable in lieu of covered deposits and up to the net losses they would have to bear in case of liquidation, and up to 50% of their target level, in case of:

- virtual bail-in on covered deposits
- use of other resolution tools

The SRB consult the relevant designated authority before deciding the amount by which the DGS is liable.

Use of SRF resources

Contribution to bail-in, after the “8%” (see above)

Guarantees, loans, contributions, purchases for:

- the failing institution (when exclusion of certain creditors from the bail-in scope)



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- the bridge bank
- the asset management vehicle
- the purchaser (in the context of the sale of business tool).

Caveat 1: no transfer of losses to the resolution fund, no recapitalization by the SRF.

Caveat 2: if the actions above result in a transfer of losses to the SRF, then the principles set out for the bail-in instrument should apply (i.e. after the 8%).